

House Engrossed

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2696

AN ACT

AMENDING SECTIONS 8-103, 8-105 AND 8-141, ARIZONA REVISED STATUTES; RELATING  
TO ADOPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-103, Arizona Revised Statutes, is amended to  
3 read:

4 8-103. Who may adopt; presumed preference; findings

5 A. Any adult resident of this state, whether married, unmarried or  
6 legally separated is eligible to qualify to adopt children. A husband and  
7 wife may jointly adopt children.

8 B. PURSUANT TO RULES ADOPTED BY THE DIVISION, THE DIVISION OR AN  
9 AGENCY SHALL PLACE A CHILD WHO IS IN THE CUSTODY OF THE STATE AND WHO IS  
10 AVAILABLE FOR ADOPTION WITH ANY PERSON WHO IS QUALIFIED TO ADOPT SUBJECT TO  
11 THE FOLLOWING:

12 1. THE DIVISION OR AGENCY MUST GIVE PRIMARY CONSIDERATION TO THE  
13 APPLICATIONS OF A MARRIED COUPLE.

14 2. THE DIVISION MAY CONSIDER AN APPLICATION TO ADOPT SUBMITTED BY A  
15 SINGLE PERSON ONLY IF A QUALIFIED MARRIED COUPLE HAS NOT SUBMITTED AN  
16 APPLICATION UNLESS ANY OF THE FOLLOWING APPLIES:

17 (a) THE APPLICANT IS A LEGAL RELATIVE OF THE CHILD.

18 (b) THE ALTERNATIVE FOR THE CHILD IS EXTENDED FOSTER CARE.

19 (c) A MEANINGFUL AND HEALTHY RELATIONSHIP BETWEEN THE APPLICANT AND  
20 THE CHILD HAS ALREADY BEEN ESTABLISHED.

21 (d) THE CHILD'S BEST INTEREST REQUIRE THE ADOPTION BY THE SINGLE  
22 PARENT.

23 (e) THE ADOPTION IS THE RESULT OF A DIRECT PLACEMENT ADOPTION.

24 C. IN EACH ADOPTION PROCEEDING THE COURT SHALL MAKE A SPECIFIC FINDING  
25 REGARDING THE BEST INTEREST OF THE CHILD PURSUANT TO THIS SECTION.

26 Sec. 2. Section 8-105, Arizona Revised Statutes, is amended to read:

27 8-105. Preadoption certification; investigation; central  
28 adoption registry

29 A. Before any prospective adoptive parent may petition to adopt a  
30 child the person shall be certified by the court as acceptable to adopt  
31 children. A certificate shall be issued only after an investigation  
32 conducted by an officer of the court, by an agency or by the division. A  
33 written application for certification shall be made directly to the court, to  
34 an agency or to the division, in the form and content required by the court,  
35 agency or division.

36 B. The division is not required to accept every application for  
37 certification. In determining which applications to accept the division ~~may~~  
38 **MUST** give priority to applications filed **JOINTLY** by **A HUSBAND AND WIFE WHO**  
39 **ARE ADULT RESIDENTS OF THIS STATE. THE DIVISION MAY GIVE SECONDARY PRIORITY**  
40 **TO** adult residents of this state who wish to adopt a child who has any of the  
41 special needs described in section 8-141.

42 C. After receiving and accepting the written and completed application  
43 of the prospective adoptive parent or parents, which shall include a  
44 financial statement and a physician's statement of each applicant's physical  
45 health, the division, the agency or an officer of the court shall conduct or

1 cause to be conducted an investigation of the prospective adoptive parent or  
2 parents to determine if they are fit and proper persons to adopt children.

3 D. The division shall not present for certification a prospective  
4 adoptive parent unless that person has a valid fingerprint clearance card  
5 issued pursuant to title 41, chapter 12, article 3.1 or provides to the  
6 division documentation of the person's application for a fingerprint  
7 clearance card. The prospective adoptive parent must certify on forms that  
8 are provided by the division and that are notarized whether the prospective  
9 adoptive parent is awaiting trial on or has ever been convicted of any of the  
10 criminal offenses listed in section 41-1758.03, subsections B and C in this  
11 state or similar offenses in another state or jurisdiction.

12 E. An officer of the court may obtain a state and federal criminal  
13 records check pursuant to section 41-1750 and Public Law 92-544. The  
14 department of public safety may exchange this fingerprint data with the  
15 federal bureau of investigation.

16 F. This investigation and report to the court shall consider all  
17 relevant and material facts dealing with the prospective adoptive parents'  
18 fitness to adopt children and shall include:

- 19 1. A complete social history.
- 20 2. The financial condition of the applicant.
- 21 3. The moral fitness of the applicant.
- 22 4. The religious background of the applicant.
- 23 5. The physical and mental health condition of the applicants.
- 24 6. Any court action for or adjudication of child abuse, abandonment of  
25 children, dependency or termination of parent-child relationship in which the  
26 applicant had control, care or custody of the child who was the subject of  
27 the action.
- 28 7. Whether the person or persons wish to be placed on the central  
29 registry established in subsection M of this section.
- 30 8. All other facts bearing on the issue of the fitness of the  
31 prospective adoptive parents that the court, agency or division may deem  
32 relevant.

33 G. The investigator shall not reveal to the prospective adoptive  
34 parents the identity of a child or the child's parent or parents and shall  
35 not reveal to the child or the child's parent or parents the identity of the  
36 prospective adoptive parents if these facts are not already known.

37 H. Within ninety days after the original application prescribed by  
38 subsection A of this section has been accepted, the division or the agency or  
39 a person or agency designated by the court to conduct an investigation shall  
40 present to the juvenile court the written report required by subsection F of  
41 this section, which shall include a definite recommendation for certifying  
42 the applicant as being acceptable or nonacceptable to adopt children with the  
43 reasons for the recommendation.

44 I. Within sixty days after receiving the investigation report required  
45 by subsections F and H of this section, the court shall certify the applicant

1 as being acceptable or nonacceptable to adopt children based on the  
2 investigation report and recommendations of the report. A certification  
3 remains in effect for eighteen months from the date of its issuance and may  
4 be extended for additional one year periods if after review the court finds  
5 that there have been no material changes in circumstances ~~which~~ THAT would  
6 adversely affect the acceptability of the applicant to adopt.

7 J. The court may require additional investigation if it finds that  
8 additional information is necessary on which to make an appropriate decision  
9 regarding certification.

10 K. Any applicant who has been certified as nonacceptable may petition  
11 the court to review ~~such~~ THAT certification. Notice shall be given to all  
12 interested parties and the matter shall be heard by the court, which may  
13 affirm or reverse the certification.

14 L. If the applicant is certified as nonacceptable, the applicant may  
15 not reapply for certification to the court, to any agency or to the division  
16 for one year.

17 M. The division shall maintain a central adoption registry that  
18 includes the names of all prospective adoptive parents currently certified by  
19 the court as acceptable to adopt children, except those who request that  
20 their names not be included, the names of all children who are under the  
21 jurisdiction of the division and who are currently available for adoption,  
22 the names of any other children who are currently available for adoption and  
23 whose names are voluntarily entered in the registry by any agency, parent or  
24 other person that has the right to give consent to the child's adoption, and  
25 other information as the division may elect to include in aid of adoptive  
26 placements. Access to information in the registry shall be made available on  
27 request to any agency under assurances as the division may require that the  
28 information sought is in furtherance of adoptive placements and that  
29 confidentiality of the information is preserved.

30 N. This section does not apply if:

31 1. The prospective adoptive parent is the spouse of the birth or legal  
32 parent of the child to be adopted or is an uncle, aunt, adult sibling,  
33 grandparent or great-grandparent of the child of the whole or half-blood or  
34 by marriage or adoption.

35 2. The birth or legal parent is deceased but at the time of death the  
36 parent had legal and physical custody of the child to be adopted and the  
37 child had resided primarily with the spouse of the birth or legal parent  
38 during the twenty-four months before the death of the parent.

39 3. The grandparent, great-grandparent, aunt, adult sibling or uncle is  
40 deceased but at the time of death that person had legal and physical custody  
41 of the child to be adopted and the child had resided primarily with the  
42 spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle  
43 during the twenty-four months before the death of the grandparent,  
44 great-grandparent, aunt, adult sibling or uncle.

1           0. If the applicant has adopted a child within three years preceding  
2 the current application and is applying to adopt another child or is a foster  
3 parent who is licensed by this state, the division or agency or a person  
4 designated by the court to conduct an investigation shall only provide an  
5 update report on any changes in circumstances that have occurred since the  
6 previous certification or licensing report. If the applicant has adopted a  
7 child more than three years before the current application and is applying to  
8 adopt another child, the division or agency or a person designated by the  
9 court to conduct an investigation may provide an updated report on any  
10 changes in circumstances that have occurred since the previous certification  
11 or licensing report. The court shall certify the applicant as acceptable to  
12 adopt unless there are changes in circumstances that adversely affect the  
13 applicant's parenting ability. In making this determination, the court shall  
14 consider information from the prior certification or licensing report.

15           Sec. 3. Section 8-141, Arizona Revised Statutes, is amended to read:

16           8-141. Definitions; exception

17           A. In this article, unless the context otherwise requires:

18           1. "Adoption subsidy" means a grant provided to a child with special  
19 needs which has been applied for through the department.

20           2. "Agency" means the department or a child welfare agency which is  
21 authorized in its license issued by the department to place or care for  
22 children in foster care.

23           3. "Application" means the completion of the department application  
24 form with documentation of the child's special needs.

25           4. "Child" means any person under the age of eighteen years who is  
26 legally free for adoption and who otherwise may not be adopted because the  
27 person has special needs.

28           5. "Department" means the department of economic security.

29           6. "Developmental disability" has the same meaning as provided in  
30 section 36-551.

31           7. "Emotional disturbance" means a condition which impedes the child's  
32 ordinary developmental progress as defined by accepted psychiatric or  
33 psychological standards and as diagnosed by one or more psychiatrists or  
34 psychologists approved by the department.

35           8. "Emotional ties" include:

36           (a) Identification of the child as a member of the foster family.

37           (b) Identification by the foster family of the child as belonging to  
38 that family.

39           (c) The likelihood that the child will not establish significant  
40 emotional ties to another family if he is denied permanent placement with the  
41 foster family.

42           9. "High risk of physical or mental disease" means a potentially  
43 debilitating condition as defined by accepted standards of the health service  
44 profession and as certified by one or more health service providers approved  
45 by the department.

1        10. "High risk of severe emotional disturbance if removed from the care  
2 of his foster parents" means the development of significant emotional ties to  
3 the foster family as documented by the child's case manager and as diagnosed  
4 by a psychiatrist or psychologist approved by the department.

5        11. "Mental disability" means a lifelong condition which is  
6 characterized by impaired intellectual development and impedes the ability to  
7 function independently as defined by accepted national standards and as  
8 certified by a psychologist, physician or child development specialist  
9 approved by the department.

10       12. "Physical disability" means one of the following conditions:

11       (a) A chronically debilitating, progressive or fatal disease which  
12 requires assistance for the child in activities of daily living.

13       (b) The requirement of assistance of another person or mechanical  
14 device for movement from place to place.

15       13. "Racial or ethnic factors" means Black, Hispanic, Native American,  
16 ~~Oriental~~ ASIAN or other heritage which may prevent a child from being adopted  
17 by a family of similar racial or ethnic origin.

18       14. "Special needs" means one or more of the following conditions which  
19 existed before the finalization of adoption:

20       (a) Physical, mental or developmental disability.

21       (b) Emotional disturbance.

22       (c) High risk of physical or mental disease.

23       (d) High risk of developmental disability.

24       (e) Age of six or more years at the time of application for an  
25 adoption subsidy.

26       (f) Sibling relationship.

27       (g) Racial or ethnic factors.

28       (h) High risk of severe emotional disturbance if removed from the care  
29 of his foster parents.

30       (i) Any combination of the special needs described in this paragraph.

31       B. The condition described in subsection A, paragraph ~~17~~ 14,  
32 subdivision (h), is not a special need unless the foster care relationship  
33 existed before the foster adoption placement was made.